

Message Text

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PAGE 01 STATE 131384

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TO AMEMBASSY MONTEVIDEO

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E.O. 11652: N/A

TAGS: BGEN, CVIS, UY

SUBJ: GOU REQUEST FOR INFORMATION ON FCN

REF: MONTEVIDEO 1535

1. WE WOULD BE INTERESTED IN THE CONCLUSION OF AN FCN TREATY WITH URUGUAY. ALMOST ALL SUCH AGREEMENTS CONTAIN "TREATY-TRADER" AND "TREATY-INVESTOR" PROVISIONS. TWO COPIES EACH OF FCN WITH NICARAGUA (THE LATEST FCN WITH A LATIN COUNTRY) AND WEST GERMANY BEING POUCHE D EMBASSY. RELEVANT PROVISION REGARDING TREATY-TRADERS AND INVESTORS IS ARTICLE 2 OF EACH TREATY.

2. FYI: THE TWO TREATIES ARE BASICALLY QUITE SIMILAR, EXCEPT FOR SOME PROVISIONS RELATING TO NAVIGATION. WE ARE SENDING THE GERMAN FCN SO THAT THE GOU WILL SEE THAT NICARAGUAN FCN IS NOT SOMETHING FORCED ON SMALL LATIN COUNTRY. (HOWEVER, ASIDE FROM THE NICARAGUAN FCN AND ONE WITH HONDURAS ENTERED INTO IN 1927, ALL OTHER FCNS

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PAGE 02 STATE 131384

WITH LATIN COUNTRIES DATE FROM MID 19TH CENTURY.)

3. WHILE A STANDARD FCN (SUCH AS THOSE BEING POUCHED) WITH URUGUAY WOULD BE DESIRABLE, THE TREATY IS QUITE BROAD AND CERTAIN PROVISIONS MAY CAUSE PROBLEMS FOR GOU (SUCH AS, IN NICARAGUAN AGREEMENT, ARTICLE V, RELATED

TO COMMERCIAL ARBITRATION; ARTICLE VII, DEALING WITH THE RIGHT TO MAKE INVESTMENTS, AND ARTICLE VI, WHICH SETS DOWN RULES ON EXPROPRIATIONS).

4. ANY FCN NEGOTIATED WITH URUGUAY NEED NOT BE A MIRROR IMAGE OF FCN'S POUCHED. HOWEVER, CERTAIN PROVISIONS, SUCH AS THOSE DEALING WITH NATIONAL TREATMENT OF ESTABLISHED INVESTMENTS AND EXPROPRIATION, ARE SUFFICIENTLY IMPORTANT THAT US WOULD BE UNWILLING TO CONCLUDE TREATY WITHOUT THEM, ALTHOUGH WE WOULD, OF COURSE, BE WILLING TO DISCUSS MUTUALLY ACCEPTABLE MODIFICATIONS OF TEXTS OF THOSE PROVISIONS. YOU MAY WISH TO POINT OUT TO THE GOU THAT THE U.S. IS INTERESTED IN CONCLUDING AN FCN WITH GOU AND THAT WE WOULD BE INTERESTED IN ANY SPECIFIC PROBLEMS THEY HAVE WITH FCN'S POUCHED. BASED ON THESE COMMENTS AND YOUR ASSESSMENT OF EXTENT OF GOU DESIRE FOR FCN AND WHAT THEY WOULD ULTIMATELY SETTLE FOR, THE DECISION CAN BE MADE AS TO WHETHER OR NOT SERIOUS NEGOTIATIONS SHOULD BE ENTERED INTO. IN THIS REGARD, THE U.S. SENATE RATIFIED AN FCN WITH URUGUAY IN 1949 BUT THE GOU NEVER COMPLETED RATIFICATION PROCEDURES. A 1960 ATTEMPT TO REVIVE THE 1949 TREATY ALSO MET WITH GOU INACTION. WE THUS WONDER WHAT PROMPTS GOU INTEREST AT THIS TIME, IN ADDITION TO VISA PROBLEMS.
END FYI. KISSINGER

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